

CITY OF MORGAN HILL  
SPECIAL JOINT CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - JULY 12, 2000

**CALL TO ORDER**

Mayor/Chairman Kennedy called the meeting to order at 7:06 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Chang, Cook, Sellers, Tate and Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairman Kennedy, Dennis Pinion, Planning Commission Chairman, led the Pledge of Allegiance.

**INTRODUCTIONS**

Chief of Police Schwab introduced newly hired Police Officers Kenneth Howard and Ramon Ramos, and Animal Control Officers Daniel Pina and David Ray.

Council Member Chang thanked the Police Department for all their assistance and with the removal of recreational vehicles.

**CITY COUNCIL REPORT**

Mayor Kennedy announced that Mayor Pro Tempore Tate would present his City Council report at the July 19, 2000 City Council meeting.

**CITY MANAGER'S REPORT**

City Manager Tewes reported on the possible extension of a 20-year ½ cent sales tax for transportation. He distributed a list of projects that represents the work of the Valley Transportation Authority in their long range planning process. He indicated that there appears to be an increasing consensus that the projects for the ½ cent sales tax should be those projects that have been previously identified as part of the long range transportation planning process, including the Tennant Avenue widening at the interchange of Highway 101. He noted that there is a category identified as "Local Streets and County Roads" with

several funding sources totaling \$220 million over the next 26 years and that it is from this funding source that VTA is suggesting that the City's additional projects be funded (e.g., extension of Butterfield, straightening out the safety problem on Sunnyside Avenue). He stated that it appears to be an increasing consensus that rather than having such projects specifically named in a ballot measure that these projects would compete along with other similar local streets and county road projects. He indicated that it is likely that these projects will be competing with other projects rather than being called out separately. He said that the County Board of Supervisors plan to be meeting on August 8 to consider whether or not to place the ½ cent sales tax on the November ballot.

Council Member Cook indicated that the City Council received a letter from Supervisor Bell stating his position in the majority vote of the Supervisors not in support of the extension of the ½ sales tax. Mayor Kennedy said that in the year 2006, the current ½ cent sales tax funding and projects will have been exhausted. The proposed ½ cent sales tax will take effect after the expiration of the existing sales tax in 2006.

Council Member Cook noted that it is being proposed to vote in November 2000 for a tax that will be imposed after 2006.

City Manager Tewes stated that the proponents are proposing that a vote be taken in November 2000 on the extension of the tax which would expire in the year 2006. If the measure is approved, it would continue the ½ cent sales tax 20 years beyond 2006.

### **INTERIM CITY ATTORNEY'S REPORT**

Interim City Attorney Leichter announced that she did not have a City Attorney's report to present.

### **PUBLIC COMMENTS**

Mayor/Chairman Kennedy opened the floor to public comments.

Debbie Hernandez, 502 Via Sorrento, informed the City Council that she has distributed literature clarifying myths and provides clarity on the Bart proposal as reference documents. She understood that the City Council will not be making a decision this evening and indicated that the Board of Supervisors look to the City Council. She inquired as to the process that the City Council would be undertaking to open this issue up to the residents of Morgan Hill? She expressed concern that the proposed tax is being rushed through the process very quickly, noting that the citizens would be voting on something this year that cannot be collected until the year 2006. She requested that the residents who will be impacted be allowed to comment on this issue. She stated that the VTA 2020, Long Term Transportation Plan, contains a list of projects that are not on the same list of projects that are being proposed in the new tax proposal. She indicated that the Peninsula Rail 2000 organization is educated on this issue and that a representative would be willing to discuss this issue with the City Council.

Mayor Kennedy requested that the City Manager agendaize the proposed ½ cent sales tax for a future Council meeting.

Dennis Pinion addressed the Pineridge Association, a fund raising organization formed to support Henry Coe State Park. One of the responsibilities of the Association is to produce information about the Park. He distributed to the City Council a new publication entitled The Trails at Henry W. Coe State Park produced by a long time volunteer and Board Member of the Pineridge Association, Winslow Briggs. He indicated that two copies of the book will be donated to the Morgan Hill Library for the community to review.

Mayor Kennedy indicated that there has been request to move agenda items 15 and 19 up in the agenda. He recommended that these agenda items be considered following the Consent Calendar.

## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Pro Tempore Tate requested that Item No. 8 be removed from the Consent Calendar.

**Action:**        *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council unanimously (5-0), **approved** consent calendar items 1-7 and 9-10 as follows:*

1.        **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR MISSION RANCH PHASE 1 (TRACT 9037) - Resolution No. 5412**

**Action:** 1) **Adopted** Resolution No. 5412 accepting the public improvements for Tract 9037, commonly known as Cochrane Road - Mission Ranch Phase I; and **Directed** the City Clerk to file a Notice of Completion with the County Recorder's office.

2.        **FINAL MAP ACCEPTANCE FOR SPRING MANOR (TRACT 9252)**

**Action:** 1) **Approved** the final map, subdivision agreement and improvement plans; 2) **Authorized** the City Manager to sign the Subdivision Improvement Agreement on behalf of the City; and 3) **Authorized** the recordation of the map and the Subdivision Improvement Agreement following recordation of the Development Improvement Agreement.

3.        **AWARD CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS NEEDED BASIS**

**Action:** 1) **Approved** the FY 00-01 contract with Harris & Associates to provide contract plan checking services on an as-needed basis at a not-to-exceed fee of \$95,000; and 2) **Authorized** the City Manager to

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4. **AWARD CONTRACT TO PROVIDE PUBLIC WORKS INSPECTION SERVICES ON AN AS-NEEDED BASIS**  
*Action: 1) **Approved** the FY 00-01 contract with Testing Engineers, Inc. (TEI) to provide public works inspection services on an as-needed basis at a not-to-exceed fee of \$127,000; and 2) **Authorized** the City Manager to execute the contract.*
5. **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR COYOTE ESTATES PH. IV (TRACT 9140) - Resolution No. 5413**  
*Action: 1) **Adopted** Resolution No. 5413 accepting the public improvements for Tract 9140, commonly known as Malaguerra Avenue - Coyote Ranch Phase IV; and 2) **Directed** the City Clerk to file a Notice of Completion with the County Recorder's Office.*
6. **PUBLIC WORKS MAINTENANCE CONTRACTS FOR FY 2000-2001**  
*Action: 1) **Approved** one year extension to Agreements for Telekey SCADA Systems, Inc., Peek Traffic-Signal Maintenance, Inc. and Diablo Landscape Management, Inc.; 2) **Approved** amendment increasing Maier and Dougherty Pump Service contract amount in 2000-01 by \$17,000 for additional work; and 3) **Awarded** well maintenance contract to Salinas Pump Company, Inc.*
7. **SUBDIVISION, SD-00-09: HALE-GLENROCK/SHEA**  
*Action: **Took no action** on the subdivision application, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map. (It was noted by Director of Community Development Director Bischoff that the typo identified by Council Member Cook was corrected.)*
9. **ADDENDUM TO SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 21, 2000**  
*Action: **Approved** the addendum minutes as submitted.*
10. **SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 28, 2000**  
*Action: **Approved** the minutes as submitted*
8. **REQUEST FOR SUPPORT OF A NOVEMBER 2000 WOMEN AND GIRLS STRATEGY SUMMIT**

Mayor Pro Tempore Tate stated that he did not object to supporting the event or funding in the amount of \$500 except for the fact that the total budget for outside agency support is only \$2,000. He could not support a quarter of the budget being used to fund an event outside of the city that may otherwise take away from a local projects. If the City Council could increase the amount budgeted, he could support funding \$500. If the Council has to stick to the budget of \$2,000 for assisting organizations, he would recommend \$250 in funding.

Mayor Kennedy recommended that additional information be provided on the Summit.

Council Services and Records Manager Torrez informed the City Council that staff could invite a representative from the County to provide the City Council with additional information on the summit.

Mayor Pro Tempore Tate felt that projects similar to this be supported within the city limits as a first priority. He noted that only two representatives from the city attended the January 2000 conference and that the Leadership Morgan Hill 2000-class sponsored an Art a La Carte program that was well attended, benefitting the community.

**Action:**        *Agency Member Tate made a motion, seconded by Council Member Cook, to **Endorse** the Forum on Women and Girls 2000 & Beyond and **Fund** \$250 for the Event.*

Council Member Cook concurred with Mayor Pro Tempore Tate's comments and stated that she did not support funding \$500 for the Summit as the main event occurred in January 2000.

Council Member Chang did not recommend that the funding be cut in half just because the City Council does not believe that there is insufficient funding under the budget. If the Council wants additional information, she recommended that the event organizers be invited to address the City Council.

Council Member Cook felt that the forum supports the goal of the community of improving the quality of life. She noted that this is an area that is not dealt within the community and therefore, the city has to rely on county support to cover this area. She stated that she was supportive of the County event for \$250.

**Vote:**        *The motion carried unanimously (5-0).*

## ***City Council & Redevelopment Agency Action***

### **PUBLIC HEARING:**

#### **19.    AGREEMENTS WITH LLAGAS VALLEY INVESTORS FOR THE RELOCATION AND REHABILITATION OF THE OLD MORGAN HILL ELEMENTARY SCHOOL BUILDING - Resolution Nos. 5415 & MHRA-223**

Business Assistance and Housing Services Director Toy presented the staff report and identified the key points of the Disposition and Offsite Development Agreement (DDA) that has been agreed to by the City and the developer. He stated that staff recommends approval of mitigated negative declaration for the

project. He indicated that the mitigated negative declaration was based on the same environmental assessment that was prepared for the use permit for the location of the school at Hale and Llagas site. He said that both the City Council and the Redevelopment will need to adopt a mitigation monitoring plan for this project before the resolutions take effect. Also, the Planning Commission would need to adopt the mitigation monitoring plan for the use permit to be considered at their July 25, 2000 meeting. This would then be presented to the City/Agency on July 26 for its consideration and approval.

Council/Agency Member Cook said that when she spoke with the city manager, she asked what mitigated negative declaration was being addressed as the City Council has not approved a negative declaration for this project. She noted that the documents used for the use permit do not come before the City Council unless appealed. Therefore, she cannot state that she has approved the document and noted that it is not listed as an action item this evening.

Planning Manager Rowe indicated that if there was not a requirement for a use permit, the City Council or Redevelopment Agency would have to approve a negative declaration as part of this action. Given that what is required by the City Council/Agency Commission has been performed by the Planning Commission in conjunction with their approval of a use permit, the City Council/Agency can rely on the Commission's actions in adopting the negative declaration and the supporting documentation. The City Council can approve the documents by reference.

Council/Agency Member Cook stated that staff is recommending that the City Council approve the Negative Declaration. She recommended that the resolutions be amended to state that the City Council/Agency is relying upon the Planning Commission's review of the use permit. She noted that the analysis was based on specific practices that Carden Academy instituted for their facility. She asked who is to state that another educational facility would use the same procedures?

Mr. Rowe responded that the conditions of the use permit spell out the same practices and procedures. If it was a school other than Carden Academy, it would have to abide by the same procedures unless an amendment to a use permit is approved and an environmental analysis would need to be performed.

Eileen Richardson, Carden Academy Business Councilmember, spoke on behalf Evelyn Musavi, Director of Carden Academy. She read a letter into the record a letter addressed to City Manager Tewes stating Carden Academy's gratitude to him and staff for the services provided. Carden Academy also appreciated the City Council/Agency Commission and staff for assisting them with finding a temporary home for the next school year. Carden Academy is looking forward to moving into the new permanent home at the restored and refurbished elementary school.

Mr. DiSalvo thanked the City Council/Agency Commission and staff for its assistance. He indicated that he received a fax from Carden Academy a lease with their signature. He is prepared to sign all the development documents that have been prepared. He stated that he is in the process of securing the loan for the project.

***City Council Action:***

**Action:**      *Council Member Chang made a motion, seconded by Council Member Sellers, to **Adopt** Resolution 5415, Approving the Sale of the Old Morgan Hill School building to Llagas*

*Valley Investors for Development and Payment by the Redevelopment Agency of Part of the Cost of the Installation and Construction of Related Public Improvements.*

***Redevelopment Agency Action:***

**Action:** *Agency Member Chang made a motion, seconded by Vice-chairman Sellers to Adopt Resolution MHRA-223, Approving the Sale of the Old Morgan Hill School Building to Llagas Valley Investors for Development and Payment by the Agency of Part of the cost of the Installation and Construction of Related Public Improvements.*

**Action:** *Agency Member Chang made a motion, seconded by Vice-chairman Sellers to Appropriate \$626,000 from the Redevelopment Agency's 317 (Agency non-housing funds) Fund Balance.*

Mayor Pro Tempore/Agency Member Tate stated that he supported maintaining the school if it can be done at an affordable cost. He said that \$606,000 was more than could be afforded and that he could not support the cost increasing in the amount of \$626,000. Therefore, he would not support the motion. If the City Council/Agency Commission approves the motion, he would agree to assist the Council/Agency to make the relocation of the building a success.

Council Member Vice-chairman Sellers stated that he has been supportive of the project all along. He requested that staff provide the Council/Agency Commission with a memorandum outlining the cause for project delay so that it can be known how these delays can be minimized with future projects.

Council/Agency Member Chang noted that it was stated that the building would be moved no later than November 30, 2000. She asked if the move can occur sooner? Mr. Toy identified the time schedule associated with the move of the building.

Gloria Pariseau indicated that it would take about 30 days to get through the permitting process necessary to move the building. She said that it would take 6-8 weeks to dismantle the building (12 week process).

Mayor/Chairman Kennedy said that an event should be scheduled to celebrate the mile stone in the process of moving a historical landmark. He asked if the November 30 date would cause a delay in the scheduled construction of the new community center? Director of Community Development Bischoff indicated that this action would not delay the construction of the new community center as long as the building is moved by the end of the year. He indicated that July 26, 2000, VBN would return to the City Council/Agency to discuss alternatives for the use of the Church building and site modifications based on the City Council/RDA direction.

Council/Agency Member Cook stated that she did not support this project when it was a conceptual agreement in December 1999 and that she has not found a reason to change her mind on the project. Therefore, she would not be supporting the motion.

**Vote:** *The above motions carried 3-2 with Council/Agency Member Cook and Mayor Pro Tempore/Agency Member Tate voting no.*

## **15. PROPOSALS FOR MEDICAL SERVICES IN MORGAN HILL**

City Manager Tewes presented the staff report and identified the proposals submitted to date as follows: 1) Catholic Healthcare West, outlining their concept for a healthcare campus at a different location; 2) Morgan Hill Community Hospital group suggesting that they are not prepared at this time to provide additional information and urged the City Council to acquire the hospital, if possible, expressing a willingness, at a later date, to discuss with the City how they might be involved; and 3) Community Hospital of Los Gatos, a unit of the Tenet Health Systems, indicating that it was possible to use the existing St. Louise facility for an acute care hospital provided that there is a significant financial subsidy to assist with operating conditions for a minimum of a five-year period.

Mayor Pro Tempore Tate stated that he was asked today if the City Council is authorizing an extension of time to two of the proposers, noting that three responses were received. He asked if there were any legal or procedural problems with reaccepting one proposal which previously stepped out and wants to step back in the process?

Interim City Attorney Leichter stated that she did not see a substantial legal issue with the acceptance of a third proposal as the Council determines the parameters of the procurement process. If the City Council wishes to reopen the process or re entertain certain proposals, it would be within its discretion to do so as long as all parties are still interested as all parties were given the same opportunities to respond.

Mayor Kennedy opened the floor to public comment.

Dan Doore, Chief Executive of the Community Hospital of Los Gatos, stated that he has been working with city officials, local physicians and other interested parties to find viable options for providing medical services to the community. During the RFP process, he indicated that a letter was submitted that Tenet would not be submitting a proposal. The reason for not submitting a proposal was due to the fact that it was not believed that there has been sufficient interest in investing in a limited liability company and/or taking out a long term lease on the medical office building of the project by local physicians to justify the submittal of a proposal and taking a risk. However, in the past few weeks, he has been working with city officials, local physicians and others. He summarized a letter submitted to City Manager Tewes that lays out the framework of a proposal that Tenet is willing to make. He addressed the deal points of Tenet's proposal as follows: 1) a long term management contract/lease to operate the former St. Louise hospital facility site as a full service acute care hospital; 2) Tenet is willing to provide debt service of \$130,000/month against the purchase price of \$20 million; 3) Tenet and Community Hospital of Los Gatos would invest \$10 million in medial equipment and furniture in year one to restore the hospital to full service use; and 4) invest an additional \$6 million in working capital over a period of 4-5 years. He stated that a subsidy of \$2 million per year would be needed based on assumptions and projections.

Mayor Pro Tempore Tate noted that Mr. Doore stated that he would be willing to work on a proposal with the physicians for an alternate approach to restore medical services. He noted that this is not a part of the Tenet proposal.



Mr. Doore stated that this was not a proposal that was submitted last week but that it was part of a letter sent to the City Council a month ago when he declined to submit a proposal to operate the facility. He said that Tenet is still willing to continue working with the city and the local physicians. He said that it is proposed to fully restore the hospital site to a full service acute care hospital with 60 beds. During the first few years, all of the beds may not be open but that Tenet would take the risk for operating all of these beds.

Council Member Cook stated that the former St. Louise Hospital facility had a higher daily bed count and that it was \$4 million in the red in 1998. She did not understand how the numbers were worked out to eliminate the red disappear in five years. Mr. Doore stated that Tenet is proposing to operate the hospital differently from how it was operated previously. It is proposed to share management between Community Hospital of Los Gatos and this facility.

Wade Rose, Vice-president for Policy and Planning, Catholic Healthcare West (CHW) Bay Area Region, stated that CHW has provided the City with a proposal to develop the Morgan Hill Health Center Medical Office complex that can be expanded to encompass an acute care hospital, when warranted in the future. The proposal envisions the City purchasing and protecting land on which healthcare services can be developed. Working with the supporters of the Christian College, a site has been located near to the center of the city, sufficiently large enough to encompass a health center and additional facilities up to and including an acute care hospital. It is proposed to underwrite the cost of planning for development of the site to accomplish planning in conjunction with the City and to invest up to \$2 million for the development of a health center. He felt that there is a need to develop sufficient physician offices and urgent care capacity to meet the healthcare needs of the citizens of Morgan Hill. The key issue is to make sure that there are enough doctors practicing in Morgan Hill. He said that the demand for acute care services by residents is directed by doctors and is allowed by health insurance companies. If the majority of the residents who need hospital services are directed by their doctors to hospitals outside Morgan Hill, then a hospital cannot thrive. If a significant number of residents use health insurances that would not allow them to use local hospital facilities, a hospital cannot thrive. In order to build a pattern for an acute care hospital to thrive, a viable medical office complex such as suggested must first be developed. He said that future hospitals will not look like they did 15 years ago as technology is increasing. The future judgement of building a hospital will revolve around the state of technology, the demographics of the community, the practice patterns of doctors and the type of health insurances being utilized. If studies prove that a hospital can thrive, CHW will have a strong interest in working with the City to help build it. The Morgan Hill Health Center Complex offers the fastest way for the city to realize the goals stated in its health objectives. He stated that CHW is ready to work with the city to meet its objectives.

Mr. Rose commented on the process that he has been involved concerning the RFP and the letter from Tenet Health Systems. He said that it was his understanding that the City Council, by its action, closed the RFP process and directed the City Manager to work with two proposers to evaluate how to proceed. He asked under what circumstances can the proposal be considered given the Council's previous action? He felt that CHW's proposal would help the city rapidly establish new consolidated healthcare services with future services to be developed. It would not require a debate over increased taxes but on the needs of the community. He requested that the City Council authorize detailed negotiations to move forward based upon the parameters outlined and that the City realize a win win situation, welcoming the Christian College into the community.

Interim City Attorney Leichter stated that the RFP process has been a fluid one in determining the correct mix of medical services needed by the community. She asked if Mr. Rose was stating that CHW was filing a formal protest over the consideration of the Tenet proposal?

Mr. Rose stated that based upon the Council's action, City Manager Tewes was directed to negotiate, discuss and to help answer questions which would help the City Council evaluate two proposals.

Interim City Attorney Leichter stated that she would take Mr. Rose's response as CHW not filing a formal protest.

Mr. Rose stated that a formal protest was not raised as an issue. He clarified that he was raising a question as he was confused about the process. He requested that the city attorney explain how it is felt that the city can consider another proposal.

Interim City Attorney Leichter reiterated that this has been a fluid process from the beginning. She indicated that the Council has stated that it would only consider proposals that are responsive to certain criteria. She noted that CHW's proposal was not responsive to the Council's RFP, yet the City Council considered CHW's proposal.

Council Member Chang noted that CHW is proposing that the City purchase a site and that CHW would invest \$2 million to develop a program and build a facility. She asked if it would be possible to use the \$2 million toward the purchase of land?

Mr. Rose said that CHW is recommending that the City purchase land and protect it because of the Council's objective to have services available for 20-years. It is CHW's opinion that the best way to do so is for the city to control the property. If a private entity controls the property, it becomes an asset for sale at some point in time. In response to Council Member Chang's question, Mr. Rose stated that once the City found a parcel of land to develop a medical facility, CHW would consider offering the City \$2 million to help purchase land.

Council Member Chang asked if the City would be allowed a free hand to develop the facility that it wants with CHW's money? Mr. Rose said that CHW could not support services which threaten the viability of St. Louise Regional Hospital. He said that it is CHW's interest in protecting the availability of acute services in South County. He indicated that the hospital in Gilroy is still in a delicate situation because of its financial situation and that it is not anticipated to change in the near future. CHW would be interested in providing the funds that could help purchase the property and that CHW would be interested in working with the City in developing an urgent care facility, medical offices and an acute care hospital in five years provided that the analysis and the study that went into the decision of a hospital clearly show that this is the thing to do. He said that CHW cannot, as a business, engage in supporting activities that would threaten the viability of the organization. Therefore, it would be difficult for CHW to subsidize Tenet Healthcare's operation.

Mayor Pro Tempore Tate noted that the first step of CHW's proposal is to fund a study in order to get a better understanding about a medical office building. He was hoping that CHW would be open to negotiate if it is found that the study states that more can go into the medical office building in the

beginning.

Mayor Kennedy said that CHW is proposing to commission a study. The city would acquire land at an estimated cost of \$3.2 million for a 12-acre site located at Tennant and Railroad Avenues. CHW would contribute approximately \$2 million to be used to build a medical office facility. It was his understanding that the medical offices would reinforce the use of St. Louise Regional Hospital because the doctors would be required to go to the CHW facility. He asked why, in this scenario, would it result in acute care in Morgan Hill as it would reinforce the existing facility in Gilroy?

Mr. Rose said that the issues are capacity and demographics. If the demographics warrant it and there is a sufficient demand for services, the risk would be acceptable. He said that the expansion would be south and not north. The city may wish to work with private businesses and developers in the community who have experience and who could partner with the city so that the ownership of the land is not an issue. CHW is trying to address the issue of how the city is going to assure that a facility would remain. In response to Council Member Cook's question, Mr. Rose stated that CHW would agree to purchase and control the uses of the land. He said that physicians will send patients to the most convenient place for treatment. He said that typically, hospitals evolve around a medical office complex because that is where the doctors are.

Mayor Kennedy felt that the medical community revolves around a hospital and not the way as stated by Mr. Rose.

Council Member Cook noted that it is being proposed by CHW they control the uses that can be developed on the property. She expressed concern with CHW controlling medical services in Morgan Hill.

Mr. Rose said that Morgan Hill has to determine the physician interest in the office space prior to making an investment. The City needs to look for pre lease agreements so that the City can measure the commitment of the market.

Council Member Cook noted that the City has not had a commitment by doctors to work a full week in Morgan Hill. The physicians only spend two to three days in Morgan Hill and practice elsewhere. She said that it appears that CHW is in control of medical facilities in Morgan Hill even if they do not own the property.

Council Member Sellers felt that what he is hearing is that CHW would not enter into an agreement that would threaten its viability. He said that he wanted to distinguish between this and future expansion. He noted that the health care needs of the community are not being met.

Mr. Rose acknowledged that it is difficult to mesh the interest of a private entity and the public interest. In addition to the interest of protecting the economical viability of the organization from a business perspective, CHW cannot invest its resources in activities that would threaten its viability. He said that CHW would agree to work with members of the community to develop a medical office complex without city involvement in order to avoid the conflicts. He said that it is not in CHW's interest to control the city but that it is in their best interest to be prudent from an economic point of view.

Council Member Chang stated that she has thought long and hard about this issue. She said that she discussed the possibility of spending RDA funds to purchase the site with the City Manager. She asked if it would be possible for the City to purchase the land and that CHW give the City the \$2 million, contract with CHW for a period of time (e.g., five years). The City could then proceed in the development of a medical facility, including an acute care facility. After five years, CHW would have no say in what the City could do with the facility.

Mr. Rose said that CHW would not be averse to looking at Council Member's scenario. He did not know what the implications would be but that CHW would agree to sit down with the City Manager to explore this issue if so directed by the City Council.

Robert G. Holderness representing the physicians, shared the city attorney's concern that Mr. Rose was expressing an objection to the participation by Tenet. It was his judgement that when the RFP responses were submitted in June, CHW's response was technically insufficient to meet the City Council's requirements and thus their bid was non responsive on the merits. He did not believe that the City Council has any bidders that met specifications that can make protest as no one has standing to do so. He was not sure why CHW is raising the issue. He noted that both CHW and the Bible College have been more than willing to let it be known that they will litigate if they do not get their way of Morgan Hill.

Mr. Holderness informed the City Council that Dr. Roussere and his colleges regret their inability to submit a fundamental substantive proposal to the RFP. He said that it was interesting to hear Mr. Doore's version of why it was that Tenet did not submit a proposal based on the uncertain in the level commitment that the physicians had. He said that Dr. Roussere and his colleagues would support the Council's decision of placing the issue on the ballot measure or any other alternative that is feasible. He felt that it was hard to accept the premise that CHW has a genuine interest for the residents of Morgan Hill, noting that CHW closed the hospital in Morgan Hill in order to make it feasible to purchase a hospital in Gilroy, an inferior facility. He felt that the City Council needs to consider CHW's motivation. He felt that it was cynical for CHW to offer \$2 million providing that the City subsidizes a medical office building that would be used as a way station for the Gilroy hospital.

Mr. Holderness recommended that the City Council allow the private sector to deal with the issue if the city does not want to acquire the hospital site. He noted that CHW is proposing an ambulatory surgery center that will be the foundation to build a new acute care hospital in Morgan Hill. He felt that an urgent care center, by itself, would only be a way station for CHW of Gilroy. He felt that what Tenet has in mind is an excellent idea in concept. He did not know how the City Council views the proposal of a subsidy. He said that the physicians would be willing to work with the Tenet proposal, noting that their proposal assumes acquisition of the site. He said that he has not submitted a proposal because the physicians could not get an operator of a hospital committed to this project.

Dr. Prasad stated that the physicians are committed to work with any healthcare provider who is willing to provide healthcare in Morgan Hill. He said that he has not had a chance to talk to the Tenet group to discuss an arrangement. If the Council decides not to do anything this would be better than accepting CHW's proposal because the City would be selling the Morgan Hill residents a hospital in Morgan Hill. He felt that CHW's interest is maintaining their facility in Gilroy and that he did not believe that it should be at the expense of the residents of Morgan Hill.

Eldan Ewing, 16700 Wild Oak Way, stated his support of bringing San Jose Christian College to Morgan Hill and that he would also like to see medical facilities in Morgan Hill. He noted that Mr. Doore expressed concern about the income that would be required and whether the support would be there to make a viable hospital. Also, there are changes occurring in medical care. He expressed concern that as the process goes on, the circumstances for the college who has purchased the property gets worse. He felt that it was important that the Council maintain the position that they did not want to get involved in the cost of running a hospital or assume a financial risk. He stated that he would not support an obligation of \$10+ million.

Mayor Kennedy indicated that he has received 10-12 speaker cards from individuals yielding their time to Dr. Edrington.

Dr. Roger Edrington, executive vice-president, San Jose Christian College, indicated that San Jose Christian College is the owner of the campus on Cochrane Road. He indicated that he would oppose any healthcare proposals that would require the seizure and condemnation of his property. He said that the Christian College has a compelling need and a right to speak in view of the threat to the property. There is no doubt that the residents of Morgan Hill would love to have a hospital, maintaining the hospital at the Cochrane Road site. He felt that most of the community has come to the conclusion that this is not feasible. Without the infusion of a large amount of tax dollar monies, a community hospital would be not be likely at this time. He addressed the H.O.M. study and its analysis. He noted that the study warns that a hospital will not be needed for at least 15-20 years even if Coyote Valley is to be developed extensively. He indicated that the owners of the San Jose Medical Center located in downtown San Jose announced their closure within the next few years. He stated that the Office of Statewide Health Planning and Development reports that 64% of California hospitals have negative margins. The Robert Wood Johnson Foundation reports that 1/3 of the hospitals in the United States are failing financially and that another 1/3 are barely making it. He noted that the H.O.M. study states that the Morgan Hill site would not be operating as a community hospital. He said that the community hospital group did not submit a proposal at this time because the market does not exist. Tenet's letter states that given a small scale facility and the low patient volume number, the financial result of the project looks marginal at best, especially during the early years. Tenet knows that the evidence demonstrates that a hospital cannot sustain itself at this time, noting that they are willing to take the risk with a \$10 million subsidy from Morgan Hill taxpayers.

Dr. Edrington stated that the Christian College has been patient in the process but felt that it was time to urge the City Council to move forward. He said that a ballot measure would further delay the inevitable conclusion. The city would have nothing to show in the way of progress in meeting its stated goal of providing the right mix of healthcare services to its residents. He noted that the hospital has been closed for more than seven months and felt that it was time to move forward. He recommended that the City Council explore other opportunities. He felt that a \$2 million gift for healthcare does not come along every day nor does a small private college with a 60-year history. He requested that the City Council not labor the community with an advisory issue on the ballot to receive partial or confused proposals. It will cause significant money to place the proposal on the ballot and will only end up causing strife in the city. He felt that the community understands that two hospitals cannot be supported in south county and that it welcomes a Christian college. It is understood that some health services are needed and that the process needs to start. He did not believe that a Christian college should be held hostage to the healthcare issues of the city. He hopes that the City Council and the community supports the rezone of

the property. He offered to assist with the negotiating process.

City Manager Tewes said that it was suggested by Dr. Edrington that the City's consideration on how to achieve its public policy objectives for medical services in some fashion delays the Christian College from using the property. He clarified that the City has taken great pains to ensure that the process of considering the zoning is completely separate from the consideration of medical services. He indicated that the Christian College has become the owner of the former St. Louise Hospital site as of June 16, 2000. Staff has held a series of meetings with Christian College representatives regarding the zoning application process. It would be staff's intent to process the zoning application in a normal course. The City Council's decision tonight and the next few weeks and months relating to medical services are not connected to potential use of the property by the owner. He noted that the Christian College purchased a piece of property that is zoned for a hospital which requires a zone change.

Dr. Edrington stated that it was not his intent to state that there has been a delay in processing the zoning application that has been caused by the need for medical facilities in Morgan Hill. It was his intent to connect the delay with a possible advisory ballot measure. He said that one of the possible advisory ballot measures could be to take the hospital site by eminent domain.

Kate Hallward stated that she represents the Healthcare Workers Union, Local 250. She indicated that the union represents 50,000 healthcare workers and that 200 members live in Morgan Hill. The union also represents approximately 1,500 Catholic Healthcare West employees in the Bay area and that they have become aware of CHW's quest to dominate the regional market share and the impact that it has had on community healthcare standards. In the past six to seven months, CHW has closed or announced the closures of four hospitals throughout the state. CHW claims to be losing money in Morgan Hill due in part to CHW's rapid expansion in recent years. CHW has quadrupled in size to become the largest hospital chain in California with 48 hospitals statewide. It has done so by accumulating a substantial debt. After having received millions of dollars in subsidies via tax breaks and donations from local members of the community, CHW apparently feels that it is acceptable to force the city to finance the construction of a new facility to help send patients to Gilroy. With the new Cisco campus to begin construction, there is no doubt that Morgan Hill will need additional health facilities and hospital services in future years. She felt that it would be a waste of precious resources to allow the existing hospital facility to be converted and lost to the public forever. Morgan Hill has the opportunity to stop CHW from playing monopoly games with healthcare services. She indicated that the City can count on the union's full support on initiatives that to meet the healthcare needs of the community and to protect the facility from being taken out of commission. She said that the administration of the Union is in support of maintaining healthcare services in the existing hospital.

Dennis Pinion said that he requested that a letter be forwarded to the City Council addressing the need of emergency care in Morgan Hill. He noted that emergency care is expensive to provide and that this is the reason for CHW's attempt to remove it from our community and consolidate their operation in Gilroy. He did not believe that CHW has the best interest of the community in mind and felt that the community needs to be responsible for its own best interest. If the services have to be subsidized by the tax payers, it will be subsidized by the citizens regardless of whether the services are provided in Morgan Hill or provided somewhere else. He said that it was obvious from CHW's presentation that their only interest is that of financial. He said that the community worked hard to provide the hospital in the first

place and now it is being taken away from the community. He felt that the City needs to work quickly and decisively to acquire the property, using RDA funds to subsidize it until it can be self sustaining. He felt that it would be a mistake to wait until November for an advisory measure.

Rob Conley stated his support of preserving the hospital site and felt that it was a historic site. He felt that the City of Morgan Hill should preserve the hospital. He felt that the bible college was aware and came into the site with an open mind, understanding that this would be a long, complex process that would take time. He said that others in the community have offered to work with the college to find an alternate site to build a college. He felt that CHW's offer of \$2 million to subsidize a medical office building in a yet to be determined facility was ludicrous. Accepting CHW's proposal would result in Morgan Hill being held hostage for a long time. He did not believe that physicians in the area would want to be a part of a medical office building that have exclusion of the services. He requested that the City Council place a measure in the November ballot. He agreed that many individuals in the community support having the college coming to town but that the majority of the residents support a hospital facility.

Chuck Toeniskoetter stated that he previously served on the Board of O'Connor Hospital, a sister hospital for St. Louise in the Daughters of Charity system. He reviewed the finances for St. Louise Hospital at quarterly board meetings and indicated that O'Connor hospital subsidized St. Louise Hospital. He said that the Daughters of Charity made two errors when they looked at this hospital site in the beginning: 1) It was felt that if St. Louise Hospital was built first, that Health Dimensions would not build a hospital, and 2) it was felt that Morgan Hill would grow rapidly, forgetting that Morgan Hill has residential growth control. He said that both conditions still exist. He felt that CHW's proposal would work for the city in providing a solution to resolve the medical issues and also bring a Christian college to the community.

Marian Smith stated that she has watched the City Council meetings where businesses receive subsidies from the city. She requested that the City Council place a measure on the ballot to ask if the people of Morgan Hill want to spend RDA money to subsidize a hospital in Morgan Hill. She stated that she would not want to see a measure placed on the ballot for a parcel tax. She felt that it was an insult for CHW to offer \$2 million with strings attached. She recommended that CHW be asked to give this money freely, as a charitable organization, in order to use the money to build what is needed in Morgan Hill.

John Quick, 20 year resident and local veterinarian, supported the concept of providing some degree of support to minimize loses in order to maintain a complete, comprehensive acute care facility in Morgan Hill. This means working with an organization that will keep the hospital as a hospital. He understands that the uses may be mixed in the first few years until the population pressure that will be coming from Coyote Valley and from the south develop enough to require a complete, unified single use facility for acute health care. He stated that the property owners adjacent to the hospital had their land condemned through eminent domain. These property owners are upset with the concept of a college with 400 students living next to them. They feel that this would add insult to injury and a total loss of their privacy. They are supportive of a condemnation proceedings in order to maintain hospital services at the site. He informed the City Council that the property owners were not able to attend tonight's city council meeting to express their thoughts on this issue.

Reverend Sal Alvarez, Deacon in the Diocese of San Jose, stated that he was present to represent the National Association of Hispanic Priests, Deacons, Religious Brothers of the United States. He stated his support of the efforts being made by the CHW in trying to resolve the dispute. He indicated that the Catholic Latinos supported CHW's decision to relocate to in south county (Gilroy) as CHW serves the Hispanics of Gilroy. He said that a strong coalition with the Christian college, CHW and the Association.

Mark Grzan, 680 Alamo, felt that it was time that the Council allow the residents of this community to decide on the issue whether it be through a ballot measure or a survey. He acknowledged that those in support of a local hospital were outnumbered by those in attendance in support of the college. He said that he has had the opportunity to talk to Morgan Hill residents over the past few months and that it has been stated that healthcare is needed in the community. He urged the City Council to take the appropriate actions regardless of outside pressures, money and other things that may come forward this evening.

No other comments were offered.

Mayor Pro Tempore Tate felt that ever since the Council received the proposals on Monday, it has been given a lot of consideration and thought. He said that he was very proud with what the City Council has done on the whole medical services question. He felt that this has been a well-orchestrated process. He stated that he read the H.O.M study again as well as the medical proposals. He felt that the City Council has taken a leadership role and felt that the City Council should continue to take a leadership role as it moves forward. He would like to see the community build a consensus. He did not see a vote as being effective in terms of what he would like to see accomplished. He noted that it was found in the H.M.O. study that there are three segments of the marketplace: 1) 1/3 Kaiser users, 2) 1/3 out of town medical users, and 3) 1/3 in town medical users. If the out of town users are addicted to how they get their medical services now, he did not believe that the City would be able to shift them in terms of voting, nor will the Kaiser users be shifted. He did not see a way that a vote would pass on a parcel tax. He felt that a vote would create a division. The City Council received the proposals, noting that the proposals did not answer the Council's objectives and that they did not identify a way to use the existing hospital without a subsidy. If put to a vote, he did not believe that the community would support a subsidy. He felt that elderly citizens, who constitute a minority segment in the community, need to be served in town.

Mayor Pro Tempore felt that there were positive and negative aspects associated with each proposal. He felt that the City needs to consider CHW's offer of \$2 million. He noted that CHW came forward suggesting that the City purchase land. He felt that this was an interesting proposal because if the city buys the land, the money would not be at risk. He noted that CHW is offering to pay for the initial study and felt that the city should take advantage of this offer. He noted that the build as you go approach recommended by CHW is the same approach suggested by the H.M.O. study commissioned by the City Council. CHW's proposal is a non hospital-based approach and felt that this was positive. What he did not like about CHW's proposal is that it that it is not complete. He felt that Mr. Rose was too conservative in what can be supported initially. Although the doctors did not make a proposal, they indicate that they want to take a leadership role in trying to find a solution and willing to participate in conjunction with a hospital. However, he was not seeing a solution that involves the existing hospital.



Regarding the Tenet proposal, he stated that he was encouraged that they came into the mix. Tenet is willing to bring to the table their expertise in administration and that they are willing to invest \$16 million with a subsidy of \$10 million. He felt that the level of investment is encouraging. However, their proposal is hospital based which he did not see as being viable given the state of proposals received. The challenge is to find a way to get the community, CHW, the physicians, Tenet and anyone else interested in participating on the same team in order to find the best solution to the situation. He stated that he did not support a ballot measure nor does he see a way to save a hospital in terms of technology, affordability and support of a full acute care hospital. He felt that there is a need to reestablish medical services and revisit the Council's goals and objectives with the City Council continuing to take a leadership role in this approach. He did not see the current hospital site as being viable and recommended that the property be reviewed in terms of a different use.

Council Member Chang noted that it has been indicated that the \$2 million being offered by CHW would be placed in a non profit organization. She asked if a non profit organization would be able to disburse the money. Mr. Rose clarified that CHW is talking about a restrictive gift and that CHW is offering an option in order to create an arms length so that individuals feel more comfortable about the relationship between CHW and the funds.

Council Member Chang stated that she would like to place a closure to the issue as everyone has worked hard to achieve medical services. She stated that she would be willing to propose the use of \$3 million of RDA economic development funds to purchase a site with non restrictive money from CHW. She would agree to place this measure on the ballot for the citizens to vote on with the overall planning belonging to the City and not CHW. She felt that this could result in a win win situation. She asked if CHW would be willing to entertain this idea?

Mr. Rose responded felt that a decision to place a ballot measure on the November 2000 election was a decision of the City Council. He stated that CHW would be willing to make an investment toward a new medical facility in Morgan Hill. He said that the funds are not a gift and that CHW is willing to invest \$2 million to help develop a medical office complex that can be the center of something that can grow, and if warranted, with a hospital in the future. The issue of purchasing land is a way that the City could meet its objectives of protecting the availability of medical services. He said that CHW's proposal is in terms of a business investment. He said that if the city were to come back to CHW based upon a master plan proposal and asked if CHW would be willing to invest on a portion of a medical master plan, CHW would consider this proposal.

Mayor Kennedy stated that it was his understanding that CHW would not agree to a no strings attached agreement because the \$2 million offer is for a CHW business investment.

Council Member Cook stated that everyone has been struggling with this issue for a long time. She said that Mayor Pro Tempore Tate addressed many of her points. She said that information presented thus far has demonstrated to her that it is feasible to maintain the form St. Louise Hospital. She noted that Tenet is requesting the community to subsidize \$10 million over a five-year period of time to keep an under utilized acute care facility going. She did not know how she could support a ballot measure knowing that it would not be a sound business decision and felt that the City should move on as this is an issue that has been studied long enough. She felt that the City should be negotiating further with

CHW to see if a plan can be discussed to accept CHW's investment of \$2 million as well as continuing discussions with Tenet as they have shown an interest in the market.

**Action:**        *Council Member Cook made a motion to continue to negotiate with CHW, looking at ways for CHW to participate in providing medical care in Morgan Hill without strings attached. The City to seek medical care alternatives from other providers.*

Mayor Kennedy noted that CHW is not willing to proceed with no strings attached.

Council Member Cook felt that CHW would be remiss if they do not think that the citizens are worth investing in. She felt that CHW needs the goodwill of the people in the community. If CHW provides services in Gilroy that the physicians and citizens of Morgan Hill want to use it would not be wise to capture them.

Mayor Kennedy asked Council Member Cook and Mayor Pro Tempore Tate if there was a proposal that would allow the existing hospital facility to be used for medical offices and that physicians be allowed to rent the space? He noted that Randlett and Associates have offered to consider this alternative. Therefore, there is a no cost option to the City.

Mayor Pro Tempore Tate noted that through the entire process, the City did not receive one proposal that came close to meeting the City Council's requirements.

Mayor Kennedy felt that the City needs to treat each of the entities as a business and talk to them in business terms. He also felt that the offer of CHW only benefits them and that the same is true of all the other proposals. It was his belief that there is an offer out there that would operate the Cochrane facility, keeping it as a medical use at not cost to the city. He recommended that discussion occur with the Randlett group, CHW, Tenet or any other group willing to provide medical services to the community.

Council Member Cook did not believe that Randlett's proposal services the needs of the community. She felt that it may preserve the building as a hospital but that it would not provide the services that the citizens of Morgan Hill need.

Mayor Kennedy did not believe that any of the other proposals meet the needs of the citizens. He felt that the Randlett's proposal would provide the medical office space for the doctors at no cost to the city.

Council Member Cook stated that she would not use the power of eminent domain to provide a business opportunity for someone in the medical services field that does not serve the community as a whole.

Mayor Pro Tempore Tate stated that he would agree to second the motion if Council Member Cook would agree to expand the motion. He said that he has no problem with Randlett or anyone else who wants to participate in the process. He said that if there is someone who thinks that they could add value to the community he would be willing to hear their proposal.

Council Member Cook stated that she would not agree to amend her motion at this time because she was

at the point in her decision making where she can walk away from this particular site. She would agree to amend her motion if it is to ask Randlett if they would agree to provide medical services other than at the St. Louise site.

**Action:**        *Council Member Cook made a motion, seconded by Mayor Pro Tempore Tate, to amend the motion to allow the city to continue discussion with CHW and investigate what strings are to be attached in their offer. City to have continued dialogue with Tenet and Randlett to see if they are willing to provide medical services at a location other than the St. Louise site.*

Mayor Pro Tempore Tate stated that he did not want to exclude any providers who can achieve the City's objectives.

Council Member Cook said that she would agree to include the local physicians in discussions and that the focus is not the St. Louise site.

Mayor Kennedy said that it is his proposal to place an advisory measure on the ballot that would allow the voters of Morgan Hill to have a say in the decision making process. He recommended that the City Council appoint a subcommittee consisting of Council Member Sellers and himself to work on this issue. He felt that the Council can also discuss the issues raised by Council Member Cook and bring this back at a future meeting. This would allow the City Council to gather additional information in order to discuss a range of options, including the one mentioned by Council Member Cook.

Council Member Cook expressed concern that nothing has changed in the past year to indicate that the former St. Louise hospital would be a viable site and that it could operate without a subsidy. She felt that placing an advisory measure on the ballot would be another waste of time. If the Council is to place a measure on the ballot, she recommended that a measure be placed on the ballot that would have some actions associated with it and that it is not just an advisory measure. She felt that the City Council has missed a lot of opportunities. If the City Council wanted to use its power of eminent domain, it should have been used a long time ago.

Council Member Chang stated that it was her hope to place two action ballot measures as follows: 1) Are the citizens of Morgan Hill willing to subsidize the Tenet proposal of \$2 million per year for five years? 2) Are the citizens willing to move forward, using RDA funds to purchase the site, negotiating with CHW with no strings attached? She did not believe that the issues would be resolved by accepting \$2 million from CHW. She felt that the City Council should ask the citizens of Morgan Hill if they are willing to pay healthcare services. If the citizens are not willing to pay for the services, the city can move forward. However, if the citizens are willing to pay for medical services, she felt that it was the City Council's responsibility to make it happen.

Mayor Kennedy said that there may be another alternative solution. In lieu of an advisory measure, a professional prepared survey can be conducted asking a series of questions to assist the City Council in forming its opinions/decisions. A survey could be conducted quickly and would not involve campaign issues with respect to an advisory measure. This alternative would answer one of Mayor Pro Tempore

Tate's concern about building a consensus and creating groups taking sides on the issue. He felt that a Council subcommittee could work on this. He felt that the subcommittee, with the assistance of the City Manager, could return with a range of options for the Council to take action on.

Council Member Cook expressed concern that the City has spent more than \$100,000 thus far, noting that the City has not come up with a single solution. She said that she would prefer to spend money on a survey that is very targeted, identifying the direction that the City Council should take. The Council can then see how the community can achieve the goal. She felt that the City Council has to initially make its own decision so that the City is not spinning its wheel, waiting for November election and still not have direction to be working in.

Council Member Sellers felt that there are issues that need to be explored, including what a valid ballot measure would state. He was not convinced that it makes sense to place an advisory measure on the ballot this fall nor could he state that this issue should not be placed on the ballot. He noted that when the City extended the Redevelopment Agency, the Agency identified specific uses that would be paid by the RDA. He felt that the City owes the public the opportunity to indicate whether they support the use of RDA funds for healthcare services, noting that this use was not specifically included in the extension. He said that he was not interested in having debate that would pit one side of the community against the other. He supported the suggestion of the formation of a two-member Council subcommittee and requested that he be allowed to serve on the subcommittee. The subcommittee may be able to develop an initiative that might make sense should the City Council decide to proceed with one. He understood that there were two parts to the motion: 1) the City is to proceed with negotiations with any variety of groups, and 2) that the City does not proceed with the existing site. He requested that the second issue be separated out. His request is based on the need for a 4/5 vote for an eminent domain. He noted that there is an indication that it does not make sense to proceed with the Cochrane site. He said that he can see the motion failing but the core issue remaining.

Mayor Kennedy recommended that a motion be made that would allow the City to enter into discussions and negotiations with all of the medical services providers and interested parties.

Council Member Cook expressed concern that the proposers do not know what the city wants based on very general, basic City Council objectives. She felt that the City needs to identify specific objectives.

Mayor Pro Tempore Tate said that he is suggesting a team approach and that the first of this approach is to establish goals and objectives as a team.

Council Member Chang said that if the citizens of Morgan Hill want to use RDA funds to provide medical services in the community, the Council will have to respect the citizens' right to the election process.

Council Member Cook felt that placing a measure on the ballot will become a political issue in the upcoming campaign.

Council Member Chang said that the issue is creating a political chaos. She said that she is not concerned about the outcome of her election. She said that she is making decisions based on what is best for the citizens of Morgan Hill (her election secondary to medical services).

Mayor Kennedy stated that a letter has been presented that states medical services can be done without a cost to the City. He felt that the City should investigate to see if this is a real offer.

**Action:**        *Council Member Cook withdrew her motion.*

**Action:**        *Council Member Cook made a motion to direct the investigation of alternative sites, excluding the Cochrane site.*

Mayor Pro Tempore Tate stated that he would not support the motion at this time. He stated that he respects the entire City Council and that he hates stretching this issue out. However, there has been a suggestion that a subcommittee is formed to outline all options. He stated that he would support the establishment of a subcommittee.

**Action:**        *Mayor Pro Tempore Tate made a motion, seconded by Council Member Chang to appoint a medical subcommittee consisting of Mayor Kennedy and Council Member Sellers. Subcommittee to return in one week with all the options outlined with other Council Members providing input to the subcommittee on alternative options.*

Council Member Sellers stated that Morgan Hill does not currently have adequate medical healthcare services. He said that he was not willing to let this issue go until the Council has figured out a way to provide adequate healthcare services in the community. He noted that the City Council still has options available and that he would like to see these options pursued vigorously as time is of the essence. If the city is to proceed with anything on the ballot, it needs to be determined if this make sense and what the results would achieve. He did not believe that it was reasonable to expect the entire community to spend time going through all the multiple issues. He felt that an advisory measure has to be comprehensible that it clearly state the course of action, and that it would have to be viable. He stated that he would be willing to work on this the next week.

Mayor Kennedy stated that he has the responsibility of working to ensure that medical services are restored in the community. He would like to have the Christian college locate in the community and that he would do what he can to make this work.

**Vote:**        *The motion carried 4-1 with Council Member Cook voting no.*

## **PUBLIC HEARINGS:**

### **11. CONTINUED PUBLIC HEARING, CONFIRMING THE SANTA CLARA COUNTY FIRE MARSHAL'S REPORT RELATING TO BRUSH ABATEMENT - Resolution No. 5407**

Interim Human Resources Director Dile presented the staff report. She informed the City Council that Fire Marshal Hicks was present earlier this evening and indicated that they felt that the educational efforts have paid off. She said Mr. Hicks did not anticipate many homeowners would require the need of a county contractor to abate brush and that the homeowners are taking the responsibility to remove the brush as requested by the Fire Department.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Sellers stated that it has been brought to his attention that there are vacant lots located centrally in town. He asked if these lots are overlooked because they are vacant lots? Ms. Dile said that the weed abatement program is focused city wide but that the brush abatement program is only applied to areas identified as hazardous fire areas. Therefore, it is the hillside areas where the brush abatement program is centered. She stated that she would refer specific properties of concern to the County Fire Marshal's office.

**Action:**        *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Accepted** Report from the Santa Clara County Fire Marshal's Office on the 2000-Brush Abatement Program.*

**Action:**        *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Adopted** Resolution No. 5407 that confirms the report from the Santa Clara County Fire Marshal's Office that sets forth the description of property and the owners and requiring the abatement of the brush nuisance.*

**12.     DEVELOPMENT AGREEMENT AMENDMENT APPLICATION , DA-00-03: HALE - GLENROCK - Ordinance No. 1485, New Series**

Director of Community Development Bischoff presented the staff report and indicated that minor revisions are proposed and that those modifications were handed out to the City Council this evening (e.g., makes reference to this being an addition to an existing 60-unit development agreement, references a prior phase of the project, amendment to the TDC commitment, BMR units to be constructed 6/2).

Mayor Kennedy opened the public hearing. No input being offered, the public hearing was closed.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Cook, the City Council unanimously (5-0) **waived** the reading in full of the Development Agreement Ordinance No. 1485, New Series.*

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Cook, the City Council **introduced** Ordinance 1485, New Series by title only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT AMENDMENT FOR GLENROCK/SHEA FOR A 22-UNIT ADDITION TO THE MADRONE CROSSING PROJECT WHICH WAS AWARDED AN ALLOCATION THROUGH THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM FOR FISCAL YEAR 2001-2002 AND FISCAL YEAR 2002-2003 by the following roll call vote: AYES: Chang, Cook, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

**13.     APPEAL APPLICATION AP 00-04: E. DUNNE - B.H. PACIFIC**

Director of Community Development Bischoff presented the staff report and informed the City Council that the applicant has requested that this item be continued to allow the preparation of additional traffic evaluation.

Mayor Kennedy opened the public hearing. No comments were offered.

**Action:**        *On a motion by Council Member Cook and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **continued** Public Hearing to July 19, 2000.*

**14.    TEXT AMENDMENT - REVISION TO RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) STANDARDS AND CRITERIA. APPLICATION ZA-00-07 - Ordinance No. 1486, New Series**

Planning Manager Rowe presented the staff report.

Mayor Kennedy opened the public hearing.

Carolyn Hipp, Warmington Homes, read into the record a concern with respect to the application of the Standards and Criteria of the RDSCS of the 2000 Measure P competition relating to Section 18.78.210 Schools, in its current form to the 2000 Measure P, not being consistent with recent changes in state law. She requested that Section 18.78.210b.3. be deleted from the 2000 Measure P criteria and that 19 points be awarded to all develops under section b.1. who comply and pay the District adopted developer fees in accordance with the 1998 Schools Facilities Act or that the Mello Roos District points be eliminated. She further requested that the City Council request a formal written opinion from the Acting City Attorney on the steps that need to be taken to assure that the 2000 Measure P competition confirms to the 1998 Schools Facilities Act.

Mayor Pro Tempore Tate felt that a lengthy presentation has been presented that he did not believe was on the agenda.

Interim City Attorney Leichter indicated that this is a subject matter that is on the agenda.

Council Member Cook did not see the need to revisit this issue again as Ms. Hipp made the same presentation a month ago. At that time, the City Council denied her request to amend the Schools criteria and directed staff to consider the issue next year and that it not to be considered as part of the 2000 Measure P competition. She requested that staff and the City Attorney address the question of the legalities of this issue. It was her belief that the City has a formal legal opinion that affirms the use of this criteria under Measure P.

Interim City Attorney Leichter stated that a legal opinion was received a year ago and that this issue was examined in detail. She said that the two points under the Schools category is not in violation of the Schools Facilities Act. She stated that she would review the legal opinion because there were certain paragraphs that addressed litigation strategies that would be exempt from disclosure. She would agree to provide a copy of the legal analysis.

No other comments being offered, the public hearing was closed.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **waived** the reading in full of Ordinance No. 1486, N.S., amending the Standards and Criteria and Procedures of the Residential Development Control System.*

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Chang, the City Council **introduced** Ordinance No. 1486, New Series by title only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE by the following roll call vote: AYES: Chang, Cook, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

**Action:**        *On a motion by Council Member Cook and seconded by Council Member Sellers, the City Council agreed to extend its meeting to 11:45 p.m.*

#### **OTHER BUSINESS:**

### ***City Council & Redevelopment Agency Action***

#### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Commission unanimously (5-0) approved consent calendar items 16 and 18 as follows:*

16.    **SPECIAL JOINT CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 14, 2000**

**Action:** **Approved** the minutes as submitted

18.    **JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 28, 2000**

**Action:** **Approved** the minutes as submitted

17.    **JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 21, 2000**

**Action:**        *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council, on a 4-0-1 vote with Council/Agency Member Cook abstaining, **Approved** the minutes as submitted.*



## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **20. AGREEMENT FOR PROFESSIONAL SERVICES TO CONDUCT BURROWING OWL STUDY**

**Action:**        *On a motion by Vice-chairman Sellers and seconded by Agency Member Tate, the Agency Commission unanimously (5-0) 1) **Authorized** the Agency Executive Director to Enter into a Contract with Albion Environmental, Inc. for \$56,204 to conduct a Citywide burrowing Owl Study, and 2) **Directed** Staff to solicit applicants for the Plan Task Force.*

Agency Member Tate recommended that two members of the Planning Commission be appointed in lieu of the appointment of one City Council member.

**Action:**        *On a motion by Vice-chairman Sellers and seconded by Agency Member Tate, the Agency Commission unanimously (5-0) agreed to reconsider Agenda Item 20.*

**Action:**        *On a motion by Vice-chairman Sellers and seconded by Agency Member Tate, the Agency Commission unanimously (5-0) 1) **Authorized** the Agency Executive Director to Enter into a Contract with Albion Environmental, Inc. for \$56,204 to conduct a Citywide burrowing Owl Study, and 2) **Directed** Staff to solicit applicants for the Plan Task Force, with no City Council appointment and the appointment of two Planning Commissioners.*

### **CLOSED SESSION:**

Interim City Attorney Leichter announced the following closed session items:

#### **1.**

##### **CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Mission View and Cochrane Road; and APN 728-31-009 - 12.88 acres located on the southeast corner of Cochrane and Highway 101 (St. Louise Hospital property)
City Negotiators:	Agency Members; Executive Director; Interim Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic:	Potential Litigation

#### **2.**

##### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Initiation of litigation pursuant to Government Code section 54956.9(c) - One (1) potential case

### **PUBLIC COMMENTS**

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairman Kennedy adjourned the meeting to closed session at 11:10 p.m.

**RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 11:25 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Mayor Kennedy announced that no reportable action was taken on the above listed closed session items.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:26 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**Irma Torrez, City Clerk/Agency Secretary**